REMARKS

Reconsideration of the present application is respectfully requested.

Summary of Office Action

Claims 76, 79-80 and 82-84 stand rejected under 35 USC § 103(a) as being unpatentable over Smithson et al. 6,802012, and further in view of Edwards et al. 6,931,540 in that which is (allegedly) commonly known in the art.

Claim 77 stands rejected under 35 USC § 103(a) as being unpatentable over Smithson et al. 6,802,012, Edwards et al. 6,931,540 and further in view of Tso et al. 6,088,803.

Claims 78, 81 and 85 stand rejected under 35 USC § 103(a) as being unpatentable over Smithson et al. 6,802,012, Edwards et al. 6,931,540 and further in view of Poublan 4,104,718.

Interview Summary

A telephonic interview was conducted between the Examiner and Applicant's representative (the undersigned) on 10/2/2008. Applicant's representative and the Examiner discussed Applicants' invention generally and certain subject matter described in the specification for possible incorporation into the claims. No particular agreement was reached.

Summary of Amendments

In this amendment, no claims have been canceled, claims 76, 77, 80, 82, 84, 86-88 and 90 have been amended; and claims 91-95 are newly added. No new matter has been added.

The specification has been amended at page 23 to provide better support for claims 77 and 92-95. Support for this amendment and these claims is found at least in

original claim 6 of the present application as filed. Thus, no new matter has been added.

Discussion of Rejections

The current rejections are moot in view of the amendments to the claims. The cited references, either individually or in combination, do not disclose or suggest a method, apparatus or system such as recited in Applicant's claims.

Smithson discloses allocating a priority for virus scanning based on the user that requested the file that is to be scanned.

Edwards discloses determining the type of virus detection to be used based on the process that is accessing a file.

Claim 76

With regard to claim 76, however, the cited references do not disclose or suggest, either individually or in combination, a storage server performing the particular *combination* of actions including:

> in response to [a] request [for an object], determining at the storage server whether to cause a processing device in a cluster of processing devices to access the object stored at the storage server and perform an operation on the object, wherein the cluster is separate from the storage server and is not in a path from the requester to the object, wherein said determining includes determining whether to cause the processing device to perform the operation based at least partially on a file space containing the object;
>
> selecting, at the storage server, the processing device from among a plurality of processing devices that form the cluster, based on a classification of the processing device relative to other processing devices in the cluster, wherein the classification is based on a performance criterion;

assigning a specific access type to the processing device by the storage server when the storage server verifies the processing device satisfies restriction criteria;

causing the processing device to perform the operation in response to a specified outcome of said determining;

receiving at the storage server a result of the operation from the processing device; and

conditionally allowing access to the object in response to the request according to the result of the operation.

Among other things, the references do not teach or suggest, either individually or in combination, the added limitation of a storage server *selecting the processing device from among a plurality of processing devices that form a cluster, based on a classification of the processing device relative to other processing devices in the cluster, wherein the classification is based on a performance criterion.* Support for this limitation can be found in Applicant's specification at page 22, line 20 through page 23, line 4.

Also, the Office takes official notice with regard to the limitation of "assigning a specific access type to the processing device by the storage server when the storage server verifies the processing device satisfies restriction criteria." The Office contends that it is commonly known and widely practiced for the scanning device to be on a device that is assigned a particular access type based on its location in the network, i.e. devices more susceptible to attacks may be given less access than those which are not as vulnerable. Applicant respectfully traverses and requests that the Office *cite a prior art reference* to support the taking of official notice, as required by MPEP 2144.03(C), if the Office intends to maintain this contention as grounds for rejection. Official notice is only proper "where the facts asserted to be well-known, or to be common knowledge in the art are capable of *instant and unquestionable demonstration* as being well-known" (MPEP 2144.03(A), citing *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970)).

Also, with regard to the limitation of "based at least partially on a file space containing the object," the Office cites Edwards as disclosing this limitation to the extent that Edwards allegedly teaches that processing devices perform various scan types depending on the *type* of file which is requested to be scanned (Office Action, page 3, citing Edwards that col. 5, lines 1-12 and lines 35-39). However, the term "file space" as used in Applicant's claims does *not* refer to file *type*, as is made clear in Applicant's specification (although the type of file is one criterion upon which the determination can be based); see Applicant's specification at page 15, lines 16-21, and contrast page 15 lines of 11-14).

Note that there may be limitations in claim 76 that are not disclosed in the cited references other than those discussed above. However, discussion of such other limitations is thought to be moot in view of the present amendments.

Hence, the cited references do not teach all of the limitations of Applicant's claim 76, nor do they render the claimed invention *as a whole* obvious. Therefore, Applicant respectfully submits that the rejections have been overcome and requests that they be withdrawn.

The other pending independent claims include limitations similar to those emphasized above and, therefore, are thought to be patentable over the cited references for similar reasons to those discussed above.

Applicants have not necessarily discussed here every reason why every pending independent claim is patentable over the cited art; nonetheless, Applicants are not waiving any argument regarding any such reason or reasons. Applicants reserve the right to raise any such additional argument(s) during the future prosecution of this application, if Applicants deem it necessary or appropriate to do so.

Claims 77 and 92-95

Regarding dependent claim 77 and (new) claims 92-95, the Office cites Tso at column 2, lines 38-45 as disclosing "that there may be several content servers carrying the data objects and that each one of the processing device is capable of performing virus scanning may be distributed across a network" (Office Action, page 7). However,

there is no such disclosure in col. 2, lines 38-45 of Tso. In fact, there is no mention at all of the concept of clustering or distributed processing found at least in that section of Tso.

Furthermore, even if exactly what the Office alleges is disclosed is found somewhere in Tso, that still would not read on 77. Claim 77 recites that a *particular operation* is actually distributed across (performed by) separate processing devices in a cluster by virtue of its included being *processes* performed at different processing devices in the cluster, *not* merely that different devices have the *ability* to perform the same kind of operation, as Tso is alleged to disclose.

Applicant finds no disclosure in Tso that a particular *operation* is distributed across different processing devices in a cluster by virtue of its constituent processes being distributed across the different processing devices in the cluster, per claim 77. Therefore, aside from the arguments stated above regarding 76, claim 77 is thought to be further patentable over the cited art for this additional reason.

Dependent Claims

While the above remarks regarding claim 77 are thought to be useful, a specific discussion of the dependent claims is considered to be unnecessary in view of the above discussion of the independent claims. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

Conclusion

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested. If there are any additional charges, please charge Deposit Account No. 50-2207.

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Respectfully submitted,

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